

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

In re Karen Pamela Shrier,

§

No. 16-10420

Debtor.

§

Chapter 13

**RESPONSE OF R.D. CHILDERS TO TRUSTEE'S RECOMMENDATION
CONCERNING CLAIMS**

Now comes R.D. Childers ("Childers"), through his undersigned counsel, and for his response to the Trustee's Recommendation Concerning Claims ("Recommendation") and respectfully states as follows:

1. Childers timely filed his Proof of Claim, being designated as asserting an unsecured claim in the amount of \$25,159.75 (the "Claim"). A true copy of the Claim is attached hereto as Exhibit A.

2. Initially, Debtor filed an objection to said Claim, but failed to serve Childers and his attorney with said objection. Without knowledge on the part of Childers and his attorney, Debtor obtained an Order denying Childers' Claim. A true copy of the Order Disallowing Proof of Claim of R.D. Childers is attached hereto as Exhibit B.

3. After Childers' attorney and Debtor's attorney discovered said failure of service, they entered into an agreed Order to reconsider the denial of Childers' Claim. A true copy of the Order Granting Agreed Motion for Reconsideration of Order Disallowing Proof of Claim of R.D. Childers Claim Number 2 is attached hereto as Exhibit C.

3. The sole ground cited in the Debtor's Objection was that the Claim allegedly was being paid by the Debtor's corporation. However, Debtor's corporation has not paid anything to Childers on this Claim. Childers' attorney filed a response to debtor's claim objection with an attached affidavit of Childers regarding said nonpayment by Debtor and her corporation. A true and correct copy of the Response of R.D. Childers to Debtor's Objection to Proof of Claim of R.D. Childers Claim Number 2, including attachments, is attached hereto as Exhibit D.

4. Childers and Debtor, through their attorneys, entered into an agreed order denying Debtor's objection and allowing Childers' claim. A true copy of the Agreed Order Denying Debtor's Objection to Proof of Claim of R.D. Childers and Allowing Proof of Claim of R.D. Childers is attached hereto as Exhibit E.

5. None of said claim has been paid, and as such, in accordance with Debtor's plan submitted to this Court, the Claim of R.D. Childers should be treated as a general unsecured claim and the dividend paid to him through the plan should be paid at 100%.

WHEREFORE, for the reasons set forth herein, and any others appearing to the Court, Childers respectfully requests that the Court not follow the recommendation of the Trustee as to Creditor, R.D. Childers, and instead to order that the dividend paid to R.D. Childers as a general unsecured claimant be 100% and paid through the plan. Childers further respectfully requests that the Court grant such further relief the Court deems just and proper.

Respectfully submitted,

/s/Jeffrey J. Barnett

Jeffrey J. Barnett, Texas Bar No. 00792346

E-Mail: jbarnett@civil-law.com

13740 Research Blvd., Suite N-5

Austin, TX 78750-1834

Tel: (512) 336-1529

Fax: (512) 336-1550

Attorney for Claimant

CERTIFICATE OF SERVICE

I hereby certify that on October 27, 2016, a true and correct copy of the foregoing was served to each person listed below by the method indicated.

/s/Jeffrey J. Barnett

Jeffrey J. Barnett

By electronic notice by the Court and by email:

Douglas J. Powell

820 W. 10th St.

Austin, Texas 78701

Tel: (512) 476-2457

Fax: (512) 477-4503

E-Mail: djpowell@swbell.net

Attorney for Karen Pamela Shrier

By electronic notice by the Court:

Deborah B. Langehennig, Trustee

6201 Guadalupe Street

Austin, Texas 78752

TEL: (512) 912-0305

E-MAIL: trustee@ch13austin.com

Fill in this information to identify the case:

Debtor 1 Karen Pamela Shrier

Debtor 2 _____
(Spouse, if filing)

United States Bankruptcy Court for the: Western District of Texas
(State)

Case number 16-10420

Official Form 410

Proof of Claim

04/16

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. Do not send original documents; they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim

1. Who is the current creditor?

Roy D. Childers
Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor R.D. Childers

2. Has this claim been acquired from someone else?

☒ No
☐ Yes. From whom? _____

3. Where should notices and payments to the creditor be sent?

Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

Where should notices to the creditor be sent?

Roy D. Childers
Name
2436 Rick Whinery Dr.
Number Street
Austin, TX 78728
City State ZIP Code

Contact phone 5128261457

Contact email _____

Where should payments to the creditor be sent? (if different)

Roy D. Childers
Name
2436 Rick Whinery Dr.
Number Street
Austin, TX 78728
City State ZIP Code

Contact phone 5128261457

Contact email _____

Uniform claim identifier for electronic payments in chapter 13 (if you use one):

4. Does this claim amend one already filed?

☒ No
☐ Yes. Claim number on court claims registry (if known) _____

Filed on _____
MM / DD / YYYY

5. Do you know if anyone else has filed a proof of claim for this claim?

☒ No
☐ Yes. Who made the earlier filing? _____

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? ☒ No
☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____

7. How much is the claim? \$ 25,159.75 Does this amount include interest or other charges?
☒ No
☐ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
Limit disclosing information that is entitled to privacy, such as health care information.

Judgment in Cause 12-0398-CC4A in Williamson County Texas CCL #4

9. Is all or part of the claim secured? ☒ No
☐ Yes. The claim is secured by a lien on property.
- Nature of property:**
- ☐ Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
☐ Motor vehicle
☐ Other. Describe: _____
- Basis for perfection:** _____
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)
- Value of property:** \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: \$ _____

Annual Interest Rate (when case was filed) _____ %

- ☐ Fixed
☐ Variable

10. Is this claim based on a lease? ☒ No
☐ Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? ☒ No
☐ Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☐ No

☒ Yes. Check one:

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

☐ Up to \$2,850* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

☒ Wages, salaries, or commissions (up to \$12,850*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

☐ Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.

Amount entitled to priority

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

\$ _____

* Amounts are subject to adjustment on 4/01/19 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☐ I am the creditor.

☒ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 6/07/16
MM / DD / YYYY

/s/Jeffrey J. Barnett

Signature

Print the name of the person who is completing and signing this claim:

Name Jeffrey J. Barnett
First name Middle name Last name

Title Attorney at Law for Roy D. Childers

Company Barnett & Leuty, P.C.
Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 13740 Research Blvd., Suite N-5
Number Street

Austin, TX 78750
City State ZIP Code

Contact phone (512) 336-1529 Email jbarnett@civil-law.com

EXHIBIT B



IT IS HEREBY ADJUDGED and DECREED that the below described is SO ORDERED.

Dated: July 26, 2016.

TONY M. DAVIS
UNITED STATES BANKRUPTCY JUDGE

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

In re:

KAREN PAMELIA SHRIER

Debtors

§
§
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§
§
§

CASE NO. 16-10420

Chapter 13

ORDER DISALLOWING PROOF OF CLAIM OF R. D. CHILDERS
CLAIM NUMBER 2

CAME ON THIS DAY for consideration, Debtors' Objection to the Claim filed by R. D. Childers. The Court, after considering the Objection and finding no hearing necessary and no opposition being noted finds said Objection to be well taken and the relief requested therein should be granted. It is therefore,

ORDERED, ADJUDGED, AND DECREED that the Debtors' Objection to Proof of Claim of R. D. Childers is hereby SUSTAINED. It is further

ORDERED, ADJUDGED, AND DECREED that the Proof of Claim of R. D. Childers (Claim No. 2) in the amount of \$\$25,159.75 is hereby DISALLOWED.

ORDERED, ADJUDGED, AND DECREED that a copy of this order will be served by the clerk's office upon the claimant: R. D. Childers, 2436 Rick Whinery Dr., Austin, TX 78728

###

EXHIBIT C



IT IS HEREBY ADJUDGED and DECREED that the below described is SO ORDERED.

Dated: August 24, 2016.


TONY M. DAVIS
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
Western District of Texas
Austin Division

In re Karen Pamela Shrier

Debtor

§
§
§
§

Bankruptcy Case No. 16-10420-tmd

Chapter 13

**ORDER GRANTING AGREED MOTION FOR RECONSIDERATION OF
ORDER DISALLOWING PROOF OF CLAIM OF R.D. CHILDERS CLAIM
NUMBER 2**

Came on for consideration the Agreed Motion for Reconsideration of Order Disallowing Proof of Claim of R.D. Childers Claim Number 2 filed by the Creditor, R. D. Childers, and the Debtor, Karen Pamela Shrier.

The Court hereby GRANTS the Motion and it is therefore,

ORDERED that the Order Disallowing Proof of Claim of R.D. Childers Claim Number 2 is WITHDRAWN, and is hereby NULL AND VOID.

###

ENTRY REQUESTED BY:

Barnett & Leuty, PC

/s/Jeffrey J. Barnett
Jeffrey J. Barnett
Texas Bar No. 00792346
Attorney for Creditor, R.D. Childers
13740 Research Blvd., Suite N5
Austin, Texas 78750
Telephone: 512-336-1529
Facsimile: 512-336-1550
jbarnett@civil-law.com

Law Office of Douglas J. Powell

/s/Douglas J. Powell
Douglas J. Powell
Texas Bar No. 16194900
Attorney for Karen Pamela Shrier
820 W. 10th St.
Austin, Texas 78701
TEL: (512) 476-2457
FAX: (512) 477-4503
djpowell@swbell.net

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

In re Karen Pamela Shrier,

§

No. 16-10420

Debtor.

§

Chapter 13

**RESPONSE OF R.D. CHILDERS TO DEBTOR'S OBJECTION TO
PROOF OF CLAIM OF R.D. CHILDERS CLAIM NUMBER 2**

Now comes R.D. Childers ("Childers"), through his undersigned counsel, and for his response to the Debtor's Objection to Proof of Claim of R.D. Childers Claim Number 2 ("Objection") and respectfully states as follows:

1. Childers timely filed his Proof of Claim, being designated as asserting an unsecured claim in the amount of \$25,159.75 (the "Claim"). A true copy of the Claim is attached hereto as Exhibit A.

2. By filing the Claim, Childers introduced prima facie evidence that the claim is both valid and accurate. The Debtor cannot shift the burden to prove the validity of the Claim without providing evidence showing that the Claim is not accurate. Unless the Debtor successfully shifts the burden to Childers and Childers fails to satisfy the burden, the Childers Claim must prevail.

3. The sole ground cited in the Objection is that the Claim is being paid by the Debtor's corporation.

4. Debtor's corporation has not paid anything to Childers on this Claim. Childers' affidavit confirming this fact is attached hereto as Exhibit B.

5. Furthermore, until the Claim has been fully paid, whether by Debtor's corporation or by Debtor, the Claim is still a valid claim, and Debtor has not presented evidence or even argument that the Claim is not valid. The Claim is based on a Texas court judgment, a certified copy of which is attached hereto as Exhibit C.

WHEREFORE, for the reasons set forth herein, and any others appearing to the Court, Childers respectfully requests that the Court overrule the Objection, and allow the Claim in the amount of \$25,159.75 as a general unsecured claim together with such further relief the Court deems just and proper.

Respectfully submitted,

/s/Jeffrey J. Barnett

Jeffrey J. Barnett, Texas Bar No. 00792346

E-Mail: jbarnett@civil-law.com

13740 Research Blvd., Suite N-5

Austin, TX 78750-1834

Tel: (512) 336-1529

Fax: (512) 336-1550

Attorney for Claimant

CERTIFICATE OF SERVICE

I hereby certify that on September 8, 2016, a true and correct copy of the foregoing was served to each person listed below by the method indicated.

/s/Jeffrey J. Barnett
Jeffrey J. Barnett

By electronic notice by the Court and by email:

Douglas J. Powell
820 W. 10th St.
Austin, Texas 78701
Tel: (512) 476-2457
Fax: (512) 477-4503
E-Mail: djpowell@swbell.net
Attorney for Karen Pamela Shrier

By electronic notice by the Court:

Deborah B. Langehennig, Trustee
6201 Guadalupe Street
Austin, Texas 78752
TEL: (512) 912-0305
E-MAIL: trustee@ch13austin.com

Fill in this information to identify the case:

Debtor 1 Karen Pamela Shrier

Debtor 2 _____
(Spouse, if filing)

United States Bankruptcy Court for the: Western District of Texas
(State)

Case number 16-10420

Official Form 410

Proof of Claim

04/16

Read the instructions before filling out this form. This form is for making a claim for payment in a bankruptcy case. Do not use this form to make a request for payment of an administrative expense. Make such a request according to 11 U.S.C. § 503.

Filers must leave out or redact information that is entitled to privacy on this form or on any attached documents. Attach redacted copies of any documents that support the claim, such as promissory notes, purchase orders, invoices, itemized statements of running accounts, contracts, judgments, mortgages, and security agreements. **Do not send original documents;** they may be destroyed after scanning. If the documents are not available, explain in an attachment.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Fill in all the information about the claim as of the date the case was filed. That date is on the notice of bankruptcy (Form 309) that you received.

Part 1: Identify the Claim**1. Who is the current creditor?**Roy D. Childers

Name of the current creditor (the person or entity to be paid for this claim)

Other names the creditor used with the debtor R.D. Childers**2. Has this claim been acquired from someone else?**☒ No☐ Yes. From whom? _____**3. Where should notices and payments to the creditor be sent?**

Federal Rule of Bankruptcy Procedure (FRBP) 2002(g)

Where should notices to the creditor be sent?Roy D. Childers

Name

2436 Rick Whinery Dr.

Number Street

Austin, TX 78728

City

State

ZIP Code

Contact phone 5128261457

Contact email _____

Where should payments to the creditor be sent? (if different)Roy D. Childers

Name

2436 Rick Whinery Dr.

Number Street

Austin, TX 78728

City

State

ZIP Code

Contact phone 5128261457

Contact email _____

Uniform claim identifier for electronic payments in chapter 13 (if you use one):
_____**4. Does this claim amend one already filed?**☒ No☐ Yes. Claim number on court claims registry (if known) _____

Filed on _____

MM / DD / YYYY

5. Do you know if anyone else has filed a proof of claim for this claim?☒ No☐ Yes. Who made the earlier filing? _____

Part 2: Give Information About the Claim as of the Date the Case Was Filed

6. Do you have any number you use to identify the debtor? ☒ No
☐ Yes. Last 4 digits of the debtor's account or any number you use to identify the debtor: _____

7. How much is the claim? \$ 25,159.75 Does this amount include interest or other charges?
☒ No
☐ Yes. Attach statement itemizing interest, fees, expenses, or other charges required by Bankruptcy Rule 3001(c)(2)(A).

8. What is the basis of the claim? Examples: Goods sold, money loaned, lease, services performed, personal injury or wrongful death, or credit card.
Attach redacted copies of any documents supporting the claim required by Bankruptcy Rule 3001(c).
Limit disclosing information that is entitled to privacy, such as health care information.

Judgment in Cause 12-0398-CC4A in Williamson County Texas CCL #4

9. Is all or part of the claim secured? ☒ No
☐ Yes. The claim is secured by a lien on property.
- Nature of property:**
- ☐ Real estate. If the claim is secured by the debtor's principal residence, file a *Mortgage Proof of Claim Attachment* (Official Form 410-A) with this *Proof of Claim*.
☐ Motor vehicle
☐ Other. Describe: _____
- Basis for perfection:** _____
Attach redacted copies of documents, if any, that show evidence of perfection of a security interest (for example, a mortgage, lien, certificate of title, financing statement, or other document that shows the lien has been filed or recorded.)
- Value of property:** \$ _____
Amount of the claim that is secured: \$ _____
Amount of the claim that is unsecured: \$ _____ (The sum of the secured and unsecured amounts should match the amount in line 7.)

Amount necessary to cure any default as of the date of the petition: \$ _____

Annual Interest Rate (when case was filed) _____ %

- ☐ Fixed
☐ Variable

10. Is this claim based on a lease? ☒ No
☐ Yes. Amount necessary to cure any default as of the date of the petition. \$ _____

11. Is this claim subject to a right of setoff? ☒ No
☐ Yes. Identify the property: _____

12. Is all or part of the claim entitled to priority under 11 U.S.C. § 507(a)?

☐ No

☒ Yes. Check one:

Amount entitled to priority

A claim may be partly priority and partly nonpriority. For example, in some categories, the law limits the amount entitled to priority.

☐ Domestic support obligations (including alimony and child support) under 11 U.S.C. § 507(a)(1)(A) or (a)(1)(B).

\$ _____

☐ Up to \$2,850* of deposits toward purchase, lease, or rental of property or services for personal, family, or household use. 11 U.S.C. § 507(a)(7).

\$ _____

☒ Wages, salaries, or commissions (up to \$12,850*) earned within 180 days before the bankruptcy petition is filed or the debtor's business ends, whichever is earlier. 11 U.S.C. § 507(a)(4).

\$ _____

☐ Taxes or penalties owed to governmental units. 11 U.S.C. § 507(a)(8).

\$ _____

☐ Contributions to an employee benefit plan. 11 U.S.C. § 507(a)(5).

\$ _____

☐ Other. Specify subsection of 11 U.S.C. § 507(a)() that applies.

\$ _____

* Amounts are subject to adjustment on 4/01/19 and every 3 years after that for cases begun on or after the date of adjustment.

Part 3: Sign Below

The person completing this proof of claim must sign and date it. FRBP 9011(b).

If you file this claim electronically, FRBP 5005(a)(2) authorizes courts to establish local rules specifying what a signature is.

A person who files a fraudulent claim could be fined up to \$500,000, imprisoned for up to 5 years, or both. 18 U.S.C. §§ 152, 157, and 3571.

Check the appropriate box:

☐ I am the creditor.

☒ I am the creditor's attorney or authorized agent.

☐ I am the trustee, or the debtor, or their authorized agent. Bankruptcy Rule 3004.

☐ I am a guarantor, surety, endorser, or other codebtor. Bankruptcy Rule 3005.

I understand that an authorized signature on this *Proof of Claim* serves as an acknowledgment that when calculating the amount of the claim, the creditor gave the debtor credit for any payments received toward the debt.

I have examined the information in this *Proof of Claim* and have a reasonable belief that the information is true and correct.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on date 6/07/16
MM / DD / YYYY

/s/Jeffrey J. Barnett

Signature

Print the name of the person who is completing and signing this claim:

Name Jeffrey J. Barnett
First name Middle name Last name

Title Attorney at Law for Roy D. Childers

Company Barnett & Leuty, P.C.

Identify the corporate servicer as the company if the authorized agent is a servicer.

Address 13740 Research Blvd., Suite N-5

Number Street

Austin, TX 78750

City State ZIP Code

Contact phone (512) 336-1529 Email jbarnett@civil-law.com

UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

In re Karen Pamela Shrier,

§

No. 16-10420

Debtor.

§

Chapter 13

R.D. CHILDERS' SUPPORTING AFFIDAVIT

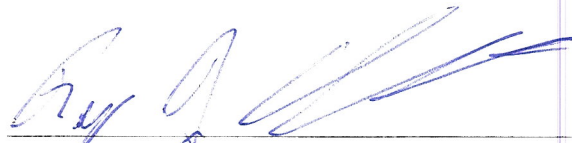
Roy D. Childers ("R.D. Childers") appeared in person before me today and stated under oath:

"My name is Roy D. Childers. I am above the age of eighteen (18) years, and I am fully competent to make this affidavit. The facts stated in this affidavit are within my personal knowledge and are true and correct.

"I am a Claimant/Judgment Creditor in this case. On October 24, 2013, I obtained a judgment against Karen P. Shrier, individually, in the amount of \$25,159.75, in cause number 12-0398-CC4A in Williamson County Court at Law Number 4.

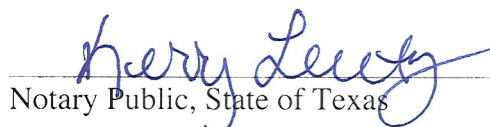
"Since that date, neither Karen P. Shrier nor her corporation, Electronic Polymers Newco, Inc., nor any other person or entity on behalf of either of them, have made any payment to me on this judgment."

Further affiant sayeth not.

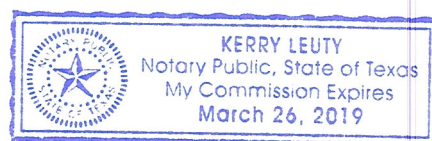


Roy D. Childers, Claimant/Judgment Creditor

SIGNED under oath before me on SEPTEMBER 7, 2016.



Notary Public, State of Texas



NO. 12-0398-CC4A

ROY D. CHILDERS
Plaintiff,

V.

KAREN P. SHRIER
Defendant.

§ **IN THE COUNTY COURT AT LAW**
§
§
§ **NO. 4**
§
§
§
§ **WILLIAMSON COUNTY, TEXAS**

JUDGMENT

On May 28, 2013 the Court considered this case.

After due consideration of the evidence, including testimony, discovery and documentary evidence, and the argument of counsel, this Court finds that Plaintiff should be granted judgment against Defendant and makes the following findings and orders the following relief:

1. This Court has jurisdiction over this cause and over these parties, and venue is proper in Williamson County.
2. On July 20, 2011, Roy D. Childers entered into a written contract for employment with Electronic Polymers Newco, Inc. and Karen P. Shrier, providing that he would hold the position of Manufacturing Engineer and that he would be paid \$4,000.00 per month during the 60-day trial period, and thereafter at the rate of \$95,000.00 per year, payable in 24-monthly payments of \$3,958.33.
3. Defendant, Karen P. Shrier, made material misrepresentations and failed to disclose material information to the Plaintiff, Roy D. Childers, in an effort to induce the Plaintiff to enter the agreement with her company, Electronic Polymers Newco, Inc.

**CERTIFIED TO BE A TRUE AND
CORRECT COPY**



NANCY E. RISTER, County Clerk
Williamson County

Page 1 of 4

4. Karen P. Shrier misrepresented to Plaintiff, that Electronic Polymers Newco, Inc. and she had sufficient funding and capital to pay him the salary ultimately offered to him.
5. Karen P. Shrier misrepresented to Plaintiff, that Electronic Polymers Newco, Inc. would be receiving bridge financing sufficient to pay him the salary ultimately offered to him.
6. Karen P. Shier failed to disclose the extremely poor financial condition of the Electronic Polymers Newco, Inc., including its lack of cash or other liquid resources sufficient to pay normal expenses and salaries, including his own, although she knew or should have known such facts.
7. All conditions precedent to the performance of Electronic Polymers Newco, Inc. and Karen P. Shrier under the Contract have been met.
8. The contractual obligations of Roy D. Childers have been fully performed.
9. Electronic Polymers Newco, Inc. and Karen P. Shier have failed to perform their contractual obligations, specifically, they have failed to pay Plaintiff the previously-agreed compensation.
10. Defendants' breach of contract described hereinabove has injured Plaintiff, causing monetary losses in the amount of \$10,506.75. Karen P. Shrier is ordered to pay to Roy D. Childers \$10,506.75 on this breach of contract claim.
11. Karen Shrier knew that the aforementioned representations were false when they were made.
12. Karen Shrier was aware that the failure to state the true facts was so misleading as to constitute a material omission.
13. Karen Shrier intended that Plaintiff rely on the representations and omissions and acted so as to deceive and defraud Plaintiff.

CERTIFIED TO BE A TRUE AND
CORRECT COPY



NANCY E. RISTER, County Clerk
Williamson County

Page 2 of 4

14. Plaintiff had no knowledge of the misrepresentations and omissions by Defendant and justifiably relied upon them in entering into the contract.
15. Plaintiff has been injured as a direct and proximate result of the foregoing fraudulent inducement of Defendants.
16. The corporate form should be disregarded and Karen P. Shrier should be held personally and individually liable for the amounts awarded herein because:
 - a. the form was inadequately capitalized with the effect of creating an injustice;
 - b. there was such unity between the corporation and Karen P. Shrier that the separateness of the corporation had ceased and holding only the corporation responsible would result in injustice;
 - c. the corporation's property was not kept separate from, and was comingled with, that of Karen P. Shrier.
17. The acts and omissions of Karen P. Shrier complained of herein were committed knowingly, willfully, intentionally, with actual awareness, and with the specific and predetermined intention of enriching Electronic Polymers Newco, Inc. and/or Karen P. Shrier at the expense of Plaintiff. In order to punish said Defendant for such unconscionable overreaching and to deter such actions and omissions in the future, Karen P. Shrier is ordered to pay exemplary damages in the amount of \$5,000.00.
18. Plaintiff, Roy D. Childers is awarded, and Karen P. Shrier is ordered to pay to Roy D. Childers, attorney fees in the amount of \$9,300.00 and costs of court in the amount of \$353.00.

CERTIFIED TO BE A TRUE AND
CORRECT COPY



NANCY E. RISTER, County Clerk
Williamson County

Page 3 of 4

IT IS THEREFORE ORDERED that judgment is entered in favor of Plaintiff, Roy D. Childers, and against Defendant, Karen P. Shrier on the claim of breach of contract and fraudulent inducement, in the amount of \$10,506.75. Such Judgment, for which execution shall issue, shall bear interest at the rate of 5% per annum, compounded annually from the date of this judgment, until paid.

IT IS THEREFORE ORDERED that judgment is entered in favor of Plaintiff, Roy D. Childers, and against Defendant, Karen P. Shrier, for exemplary damages in the amount of \$5,000.00. Such Judgment, for which execution shall issue, shall bear interest at the rate of 5% per annum, compounded annually from the date of this judgment, until paid.

IT IS FURTHER ORDERED that Plaintiff, Roy D. Childers, recovers judgment against Defendant, Karen P. Shrier in the sum of \$9,300.00, as attorney fees for the benefit of Jeffrey J. Barnett. Such Judgment, for which execution shall issue, shall bear interest at the rate of 5% per annum, compounded annually from the date of this judgment, until paid.

IT IS FURTHER ORDERED that Plaintiff recovers costs of court incurred in the course of this cause in the sum of \$353.00, (Three Hundred Fifty-three and No/100 Dollars). Such judgment, for which let execution issue, shall bear interest at the rate of 5%, compounded annually from the date of this judgment, until paid.


IT IS FURTHER ORDERED that Plaintiff is entitled to enforce this judgment through abstract, execution, garnishment and any other process.

This judgment finally disposes of all parties and all claims and is appealable.

Signed on October 24, 2013.


JOHN B. MCMASTER, JUDGE

APPROVED AS TO FORM


Jeffrey J. Barnett
Attorney for Plaintiff, Roy D. Childers
BARNETT & ASSOCIATES, P.C.
13740 Research Boulevard, Suite N5
Austin, TX 78750
Tel: (512) 336-1529
Fax: (512) 336-1550

FILED
at 8:53 o'clock A M

OCT 24 2013


Nancy E. Rister
County Clerk, Williamson Co., TX

CERTIFIED TO BE A TRUE AND
CORRECT COPY



NANCY E. RISTER, County Clerk
Williamson County

Page 4 of 4

STATE OF TEXAS
COUNTY OF WILLIAMSON
I, NANCY E. RISTER, COUNTY CLERK, DO
HEREBY CERTIFY THAT THIS IS A TRUE AND
CORRECT COPY AS SAME APPEARS OF RECORD
IN MY CUSTODY.

Witness my hand and seal of office on 9-6-16



NANCY E. RISTER, COUNTY CLERK
WILLIAMSON COUNTY, TEXAS

By C. Dawson Deputy

EXHIBIT E



IT IS HEREBY ADJUDGED and DECREED that the below described is SO ORDERED.

Dated: October 21, 2016.


TONY M. DAVIS
UNITED STATES BANKRUPTCY JUDGE

UNITED STATES BANKRUPTCY COURT
Western District of Texas
Austin Division

In re Karen Pamela Shrier

Debtor

§
§
§
§

Bankruptcy Case No. 16-10420-tmd

Chapter 13

AGREED ORDER DENYING DEBTOR'S OBJECTION TO PROOF OF CLAIM OF R.D. CHILDERS AND ALLOWING PROOF OF CLAIM OF R.D. CHILDERS

Came on this day for consideration, the Debtor's Objection to Proof of Claim of R.D. Childers (Claim No. 2). The Court, after considering and having read the objection by Debtor and response by Claimant, finds the Claim of R.D. Childers (Claim No. 2) to be valid and enforceable and the relief requested therein denied. It is therefore,

ORDERED, ADJUDGED, AND DECREED that the Debtor's Objection to Proof of Claim of R.D. Childers (Claim No. 2) is hereby DENIED. It is further

ORDERED, ADJUDGED, AND DECREED that the Proof of Claim of R.D. Childers (Claim No. 2) in the amount of \$25,159.75 is hereby ALLOWED. It is further

ORDERED ADJUDGED, AND DECREED that a copy of this order will be served by the clerk's office upon the Attorney of Record for the Debtor: Douglas J. Powell, 820 W. 10th St., Austin, TX 78701.

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ENTRY REQUESTED BY:

Barnett & Leuty, PC

/s/Jeffrey J. Barnett
Jeffrey J. Barnett
Texas Bar No. 00792346
Attorney for Creditor, R.D. Childers
13740 Research Blvd., Suite N5
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Law Office of Douglas J. Powell

/s/Douglas J. Powell
Douglas J. Powell
Texas Bar No. 16194900
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